

Before the State of South Carolina  
Department of Insurance

In the matter of:	)	
	)	File Number 2000-100925
Roy B. Gainey,	)	
	)	Default Order Revoking
3856 West BoBo Newsome Highway	)	Resident Insurance Agent's License
Hartsville, South Carolina 29550.	)	
_____	)	

This matter comes before me pursuant to a Letter of Allegation and Notice of Opportunity for Public Hearing served, as required within S.C. Code Ann. § 38-3-170 (Supp. 1999), by the State of South Carolina Department of Insurance upon Roy B. Gainey, by both certified mail, return receipt requested, and by regular mail on February 28, 2000.

That letter informed Gainey of his right to request a public hearing upon the allegations of impropriety contained within the letter against him. Further, he was warned that his failure to make a timely, written request would result in my summary revocation of his license to do business as a resident insurance agent within the State of South Carolina. Despite that warning, Gainey has failed to respond to the Department's letter. On March 14, 2000, therefore, counsel for the Department filed an Affidavit of Default, and the entire matter was submitted directly to me for my summary decision based solely on the record.

The letter alleged, and I now find as fact, that while licensed to do business as a resident insurance agent within the State of South Carolina for Liberty Life Insurance Company, Gainey failed to turn-over or satisfactorily account for insurance premiums collected from citizens of this State.

S.C. Code Ann. § 38-43-130 (Supp. 1999) provides: "The director or his designee may revoke or suspend an agent's license after ten day's notice...when it appears that an agent...has violated this title or any regulation promulgated by the department, or has willfully deceived or dealt unjustly with the citizens of this State." This Code Section goes on within Subsection (3) to describe "deceived or dealt unjustly with the citizens of this State" specifically to include, "failing to transmit promptly or pay all or a portion of the amount of an insurance premium when the agent...has received payment from a customer or insured."

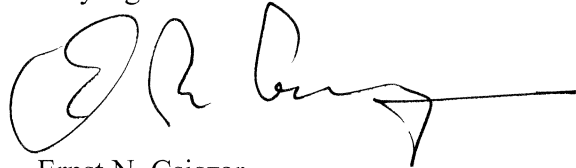
In accordance with my findings of fact, and considering Gainey's failure to avail himself of his opportunity to be heard, I now conclude, as a matter of law, that Gainey violated S.C. Code Ann. § 38-43-130 (Supp. 1999) and that his resident insurance agent's license should be revoked.

This administrative disciplinary order is a public record subject to the disclosure requirements of the State of South Carolina's, *Freedom of Information Act*, S.C. Code Ann. §§ 30-4-10, *et seq.* (1991 and Supp. 1999). Nothing contained within this administrative disciplinary order should be construed to limit or to deprive any person of any private right of action under the law. Nothing contained within this administrative disciplinary order should be construed to limit, in any manner, the criminal jurisdiction of any law enforcement or judicial officer. Nothing contained within this administrative disciplinary order should be construed to limit the statutory duty, pursuant to S.C. Code Ann. § 38-3-110(4) (Supp. 1999), of the Director of Insurance, exercised either directly or through the Department of Insurance, to "report to the Attorney General or other appropriate law enforcement officials criminal violations of the law relative to the business of insurance or the provisions of this title which he considers necessary to report."

It is, therefore, ordered that the license of Roy B. Gainey to do business as a resident insurance agent within the State of South Carolina be, and is hereby, revoked, and that no license issued through the State of South Carolina Department of Insurance is to be issued to him.

It is further ordered that a copy of this order shall be transmitted to the National Association of Insurance Commissioners for distribution to its current member states and to each insurer for which Roy B. Gainey is currently licensed, through the State of South Carolina Department of Insurance, as a resident insurance agent within the State of South Carolina.

This order becomes effective as of the date of my signature below.

A handwritten signature in black ink, appearing to read "Ernst N. Csiszar", with a long horizontal line extending to the right.

Ernst N. Csiszar  
Director

March 16, 2000, at  
Columbia, South Carolina

Before the State of South Carolina  
Department of Insurance

In the matter of:

Roy B. Gainey,

3856 West BoBo Newsome Highway  
Hartsville, South Carolina 29550.

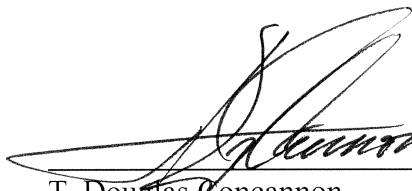
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Affidavit of Default

Personally appeared before me T. Douglas Concannon, who, being duly sworn, stated that at all times relevant to this Affidavit of Default he was an attorney representing the State of South Carolina Department of Insurance in this administrative action. He further stated the following:

Roy B. Gainey was served notice by a letter of allegation and notice of opportunity for a public hearing that the Department would request that his license to act as a resident insurance agent within the State of South Carolina be summarily revoked by the Director of Insurance for the State of South Carolina in ten days. That notice was served, pursuant to S.C. Code Ann. § 38-3-170 (Supp. 1999) by "depositing it in the United States mail, postage prepaid, addressed to the last known address of the person and registered with the return receipt requested." Further, that letter also served Gainey notice of his opportunity, within ten days, to request a public hearing.

Service of the Notice was effected by certified mail, return receipt requested, and by regular mail, on or about February 28, 2000. Gainey has made no response or request for a public hearing. The time in which to do so has expired. He is now in default.



T. Douglas Concannon  
Associate General Counsel

Sworn to and subscribed before me  
this 15th day of March, 2000.



Steven R. DuBois, Notary Public  
My Commission Expires 05/10/09

South Carolina Department of Insurance  
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